
RECOMMENDATIONS FOR THE CALIFORNIA TAX EDUCATION COUNCIL

NOTE: There will not be any recommendations from the Department of Consumer Affairs because the California Tax Education Council (CTEC) is a private, nonprofit organization and the Department has no authority or jurisdiction over them.

JOINT COMMITTEE STAFF RECOMMENDATIONS

ISSUE #1. (CONTINUE CTEC AND THE TAX PREPARER PROGRAM?) Should CTEC and the tax preparer program be continued?

Recommendation #1: *CTEC and the tax preparer program should be continued.*

Comments: The responsibility for approving tax schools and certifying the education of tax preparers was transferred from the California State Tax Preparer Program, in the Department of Consumer Affairs, to CTEC by the Governor and the Legislature effective July 1, 1997 (Greene) (Chapter 1137, Statutes of 1996). Since taking over this responsibility, CTEC has been more efficient, effective, and has provided better value than the prior state run program.

ISSUE #2. (GIVE THE FRANCHISE TAX BOARD CITE AND FINE AUTHORITY?) It is unclear what authority CTEC or the Franchise Tax Board (FTB) have, or action they can take, when an individual illegally prepares a tax return or engages in the conduct prohibited under Section 22253.

Recommendation #2: *CTEC should continue working with the JLSRC and the FTB in an effort to determine whether the FTB should be given cite and fine authority.*

Comments: Business and Professions Code Section 22253 sets forth prohibited conduct for tax preparers. CTEC has the authority to inform the non-complying tax preparer of the duties and obligations of California tax preparers pursuant to Business and Professions Code Sections 22256 and 22257.

CTEC does not have cite and fine authority under the Business and Professions Code, Sections 145 through 149. However, in their report to the JLSRC, CTEC highly recommends that the FTB be given such authority. CTEC believes that the FTB would not be duplicating efforts of other authorities, and would be more effective when visiting tax preparers and making efforts to have non-compliant tax preparers observe existing law. CTEC has worked closely with the FTB and the IRS to attempt to identify individuals who are not complying with the Business & Professions Code Sections 22250 - 22259.

The FTB has conducted site visits of tax preparers and found many unregistered preparers. The FTB notifies these individuals that they must be registered with CTEC if they are preparing taxes for a fee.

The FTB follows these visits up with written correspondence, and informs CTEC of these individuals. CTEC, in turn, sends correspondence directly to those individuals informing them of the law. Included with that correspondence is an application and a brochure on how to become a CTEC registered preparer.

ISSUE #3 (CLARIFY THE RELATIONSHIP BETWEEN CTEC AND THE BUREAU FOR PRIVATE POSTSECONDARY AND VOCATIONAL EDUCATION?) It is unclear what the relationship is between CTEC and the Bureau for Private Postsecondary and Vocational Education (BPPVE) in ensuring that the providers of tax preparer education meet approved standards and procedures.

Recommendation #3: *CTEC and the BPPVE should continue working with the JLSRC to determine who should have jurisdiction over providers of tax preparer education.*

Comments: Business and Professions Code Section 22254 requires providers of tax preparer education to meet standards and procedures as approved by CTEC or by the BPPVE. In order to receive their certificate of completion or statement of compliance, the tax preparer must take classes from approved curriculum providers.

With respect to curriculum providers, CTEC states that they have established the most comprehensive standards for tax schools, gathered the most qualified team of curriculum reviewers for tax schools, and have the most rigorous review of courses to ensure compliance with these standards of any state in the nation. Curriculum providers that do not meet CTEC standards lose their “approved” curriculum provider status. CTEC has communicated these standards through mailings, workshops, seminars, training forums, and through its website. Failure to comply with CTEC standards results in the loss of a provider’s ability to offer CTEC-approved tax courses in the California.

In light of CTEC’s efforts to approve only those curriculum providers that meet high level of standards and guidelines, it is unclear why two entities need to be involved in this approval process.

ISSUE #4 (EXPAND CTEC AUTHORITY?) It is unclear under what circumstances CTEC has proper authority to deny the issuance of a certificate of completion, or a statement of compliance to a tax preparer.

Recommendation #4: *CTEC should work with the JLSRC to determine what if any authority CTEC should be given to deny, suspend or revoke a certificate of completion or statement of compliance.*

Comments: Business and Professions Code Section 22255 requires CTEC to issue a "certificate of completion" to the tax preparer when the tax preparer demonstrates that he or she has (1) provided evidence of education or experience; and (2) provides evidence of compliance with the bonding requirement of Business and Professions Code Section 22250, including the name of the surety company, the bond number, and the bond expiration date.

Additionally, under Business and Professions Code Section 22255, CTEC is required to issue annually a "statement of compliance" when the tax preparer demonstrates that he or she has (1) completed the

required 20 hours of continuing education, and (2) provides evidence of compliance with the bonding requirement of Section 22250, including the name of the surety company, the bond number, and the bond expiration date.

The statute does not require applicants to report misconduct to CTEC, it does not authorize CTEC to check prior criminal history or prior suspension or revocation of their registration or license, nor does it allow CTEC to deny a taxpreparer a certificate of completion or a statement of compliance if CTEC becomes aware of such prior misconduct or illegal acts.

ISSUE #5. (PROVIDE REGISTRANT STATUS ONLINE?) CTEC does not currently provide registrant status online.

Recommendation #5: CTEC should provide registrant status online within a reasonable period of time.

Comments: CTEC's report states that individual inquiries may be made to CTEC to determine the status of an individual as a tax preparer or a curriculum provider. To provide easy access, CTEC has established a toll-free number for both the incoming "voice" lines, as well as the incoming "fax" lines. In addition, CTEC maintains an Internet website detailing all aspects of CTEC, including phone numbers, fax numbers, and address. CTEC can supply the public with information regarding specific tax preparers, such as registration status and number of years of registration.

In comparison, the Business and Professions Code Section 27 requires specified licensing entities (boards, bureaus, and programs) in the Department of Consumer Affairs and the Department of Real Estate, on or after July 1, 2001, to disclose information regarding the status of their licensees (including any disciplinary actions) on the Internet. The purpose of this disclosure law is to provide the public efficient access to information on consumer related licensing information.

ISSUE #6. (MODIFY CTEC COMPOSITION?) The current composition of CTEC does not include any CTEC tax preparers who are not also enrolled agents.

Recommendation #6: Existing law should be amended to provide for least 2 CTEC tax preparers, with full voting privileges, on the Board at all times.

Comments: Pursuant to Business & Professions Code Section 22251(d), CTEC is composed of not more than one representative from each professional society, association, or other entity operating as a California nonprofit corporation which chooses to participate in the Council and which represents tax preparers, enrolled agents, attorneys, or certified public accountants with a membership of at least two hundred (200) for the last three years, and not more than one representative from each for profit tax preparation corporation which chooses to participate in the Council, and which has at least two hundred (200) employees and has been operating in California for the last three years. CTEC bylaws permit not less than three members, nor more than one hundred (100) members. Nine organizations have appointed representatives to the California Tax Education Council. They include: California Society of Accounting and Tax Professionals; California Society of Enrolled Agents; East Bay Association of Enrolled Agents, Inc.; H&R Block Tax Services, Inc.; Inland Society of Tax Consultants, Inc.; Jackson Hewitt Tax Services; Mission Society of Enrolled Agents; National Association of Enrolled Agents; National Association of Tax Practitioners.

It appears that the current composition of the CTEC Board lacks CTEC tax preparers, in part because only two of the entities eligible under Section 22251(d) represent CTEC tax preparers. While CTEC does have CTEC tax preparers that sit on CTEC advisory committees these are non-voting positions. It appears appropriate to amend Section 22251(d) to ensure that CTEC tax preparers are always voting members of the Board.